

# **Notice of Allowability**

Application No.

09/398,234

Examiner

Gregory E. Webb

Applicant(s)

WESTBROOK ET AL.

Art Unit

1751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 10-13-03.
  2. ☒ The allowed claim(s) is/are 1-6 and 9-15.
  3. ☐ The drawings filed on \_\_\_\_\_ are accepted by the Examiner.
  4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    - a) ☐ All b) ☐ Some\* c) ☐ None of the:
      1. ☐ Certified copies of the priority documents have been received.
      2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
      3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
- \* Certified copies not received: \_\_\_\_\_.
5. ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
    - (a) ☐ The translation of the foreign language provisional application has been received.
  6. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application. **THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

7. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
8. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
  - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No. \_\_\_\_\_
  - (b) ☐ including changes required by the proposed drawing correction filed \_\_\_\_\_, which has been approved by the Examiner.
  - (c) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No. \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the margin according to 37 CFR 1.121(d).

9. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## **Attachment(s)**

- 1 ☐ Notice of References Cited (PTO-892)
- 2 ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3 ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No. \_\_\_\_\_
- 4 ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material

- 5 ☐ Notice of Informal Patent Application (PTO-152)
- 6 ☐ Interview Summary (PTO-413), Paper No. \_\_\_\_\_
- 7 ☐ Examiner's Amendment/Comment
- 8 ☒ Examiner's Statement of Reasons for Allowance
- 9 ☐ Other

Gregory E. Webb  
Primary Examiner  
Art Unit: 1751

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed 10/13/2003 have been fully considered. The examiner appreciates the applicant's detailed explanation concerning ASTM standards. The applicant has provided definite definitions of the intended meaning of these ASTM standards found within the claims. The applicant has further provided revision dates for these ASTM standard and thus removes any indefiniteness left in the examiner's mind. As such previous 112 rejections are hereby withdrawn.

## **REASONS FOR ALLOWANCE**

1. Claims 1-6, and 9-16 are allowed. Claims 7-8 have been cancelled (please note this is contrary to the applicant's statement dated 10/13/2003 stating: "Claim 1-16 are pending..." as the applicant clearly intends for these claims to have been cancelled).
2. The following is an examiner's statement of reasons for allowance: The closest prior art was found to be Magid et al (US 5,116,526), Eggers et al (US 4,961,869), Flynn et al (S 5,814,595), Merchant et al (US 5,827,466), Merchant et al (US 5,250,208), and Merchant et al (US 5,196,137).
3. None of the prior art of references teaches, requires or renders obvious the applicant's specific claimed composition. In particular, the prior art of record fails to disclose the applicant's specific weight percentages in the specific combination of these three groups of compounds.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue

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fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory E. Webb whose telephone number is 703-305-4945. The examiner can normally be reached on 9:00-17:30 (m-f).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta can be reached on 703-308-4708. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9310.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-0661.



Gregory E. Webb  
Primary Examiner  
Art Unit 1751

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